

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MANUEL STAPLETON,

Plaintiff,

v.

CASE NO.: 2:13-cv-11848-SJM-LJM
HON. STEPHEN J. MURPHY III
MAG. JUDGE LAURIE J. MICHELSON

CITY OF MELVINDALE,
OFFICER BRIAN BROWNING,
BADGE #ME037

Defendants.

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**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO COMPEL
ANSWERS TO REQUEST TO PRODUCE and PROOF OF SERVICE**

NOW COME the Defendants, **CITY OF MELVINDALE, OFFICER BRIAN BROWNING, BADGE #ME037**, by and through their attorneys, **PLUNKETT COONEY**, and in Response to Plaintiff's Motion to Compel Answers to Request to Produce, state as follows:

1. It is admitted that Plaintiff served a Request to Produce dated July 1, 2013 on Defendants.

2. It is likewise admitted that on July 9, 2013, Defendants filed a Response to Plaintiff's Request to Produce. Specifically, Plaintiff's Request to Produce requested copies of all lawsuits filed against the Defendant Police Department from 2007 to the present date. In response to that request, Defendants stated as follows:

“Defendants object to this request to produce as it seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Moreover, the Melvindale Police Department is not a separate legal entity capable of being sued. Finally, lawsuits filed against the City of Melvindale are matters of public record and easily accessible by the Plaintiff.” (See **Exhibit A, Defendants' Response to Plaintiff's Request to Produce**).

3. Defendants deny as untrue that they refused to answer Plaintiff's Request to Produce. Rather, Defendants stated a valid objection to Plaintiff's Request to Produce. In fact, the City of Melvindale Police Department is not a separate legal entity capable of being sued. See *McPherson v. Fitzpatrick*, 63 Mich. App. 461, 463-464, 234 N.W.2d 566 (1975). As such, the objection cited by Defendants is appropriate and legitimate. Furthermore, Plaintiff has a limited claim in this case for excessive force and battery. Plaintiff's Request to Produce obviously seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. The fact that the City of Melvindale

may have been sued in the past for false arrest, employment claims, etc., is clearly irrelevant to Plaintiff's claims and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's request is vague, overbroad and beyond the scope of good faith discovery. Furthermore, lawsuits filed against the City of Melvindale are matters of public record and can be easily accessed by the Plaintiff.

WHEREFORE, Defendants respectfully request that this Honorable Court deny Plaintiff's Motion to Compel Answers to Request to Produce.

Respectfully submitted,

PLUNKETT COONEY

By */s/Audrey J. Forbush*

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Dated: August 21, 2013

PROOF OF SERVICE

KATHALEEN M. FORDE certifies that on the 21st day of August, 2013, she caused to be served a copy of the foregoing DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO COMPEL ANSWERS TO REQUEST TO PRODUCE and PROOF OF SERVICE, via CM/ECF electronic filing with the

United States District Court for the Eastern District of Michigan, Southern Division, which will provide notice of electronic filing to counsel of record.

/s/Kathaleen M. Forde
KATHALEEN M. FORDE

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